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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,301	09/11/2003	Takeshi Sasaki	CS-27-030911	3569
22712	7590	10/05/2007	EXAMINER	
PAUL A. GUSS			MITCHELL, TEENA KAY	
PAUL A. GUSS ATTORNEY AT LAW				
775 S 23RD ST FIRST FLOOR SUITE 2			ART UNIT	
ARLINGTON, VA 22202			PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

89

Office Action Summary	Application No. 10/659,301	Applicant(s) SASAKI ET.AL.	
	Examiner Teena Mitchell	Art Unit 3771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/11/03; 3/16/05; 5/13/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-11 rejected under 35 U.S.C. 101 because the Applicant is claiming non-statutory subject matter "...a controlled body..." (i.e., which the examiner is reading to be a human body).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson et.al. (6,631,716) in view of Bo (EP 1,177,808)

Robinson in a respiratory control discloses a first circuit having an end connected to said controlled body and an opposite end connected to the outside of the apparatus (Fig. 1-A; Col. 3, lines 33-38); a first check valve (36) disposed in said first circuit for allowing said controlled body to inhale from said outside through said first circuit and preventing exhaled air from said controlled body from flowing into said first circuit (Figs. 1-A, 1-B; Col. 3, lines 33-38; the examiner is reading the controlled body as a patient (30)); a first solenoid-operated valve disposed in said first circuit for selectively connecting and disconnecting a respiratory system of said controlled body to and from said outside (Figs. 1-A, 1-B); a second circuit(30, 32; based upon breathing conduits and ventilator breathing circuits have dual breathing tubes (i.e., one for inspiration and one for expiration) there is two circuits) having an end connected to said controlled body and an opposite end connected to said outside; a second check valve disposed in said second circuit for allowing said controlled body to exhale to the outside through said second circuit and preventing said controlled body (30) from inhaling through said second circuit; a second valve (36) disposed in said second circuit for selectively connecting the respiratory system of said controlled body to and from said outside; and a controller (40, 44, 38,) for controlling said first valve at a predetermined time in a respiratory cycle thereby to disconnect the respiratory system of said controlled body from said outside, and controlling said first valve and second valve after elapse of a predetermined period from said predetermined time thereby to connect the respiratory system of said controlled body to said outside (Figs. 1-A 1-B). The difference between Robinson and claim 1 is a solenoid –operated valve. Bo in a valve teaches a solenoid-

operated valve (2, 8). It would have been obvious to one of ordinary skill in the art to modify the valve of Robinson to employ any well known solenoid-operated valve because such valves are known in the respiratory art as taught by Bo.

Regarding claim 2, Robinson discloses a timer circuit (38, 40) which is fully capable of starting measuring time when the first solenoid-operated valve and said second solenoid-operated valve have started to disconnect the respiratory system of said controlled body (30) from said outside, and outputting (44) a time measuring cycle end signal after elapse of a predetermined period from start to measure time; and a solenoid-operated valve controller (40) responsive to said timing measuring cycle and signal, for controlling said first solenoid-operated valve and said second-operated valve, independently of said controller, to connect the respiratory system of said controlled body (30) to said outside.

Regarding claim 3, Robinson discloses a pressure detecting device (22) for detecting an exhaling pressure in said second circuit reaches a predetermined pressure and outputting a detected pressure signal; and a solenoid-operated valve controller (40) responsive to said detected pressure signal, for controlling said first solenoid-operated valve and said second solenoid-operated valve (36), independently of said controller, to connect the respiratory system of said controlled body (30) to said outside.

Regarding claim 4, Robinson discloses an open switch for outputting a signal when operated (Col. 8, lines 4-38).

Regarding claim 5, Robinson discloses a vent valve (36).

Regarding claim 6, Robinson discloses wherein said first solenoid-operated valve and said second-operated valve connect the respiratory system of said controlled body (30; Fig. 6) to said outside when said first solenoid-operated valve and said second-operated valve are de-energized as taught by Bo.

Regarding claim 7, Robinson discloses the claimed invention except for the audio output unit for announcing the progress of a respiration control cycle of said controller by voice. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have an audio output unit as audio output systems are well known in x-ray and MRI settings.

Regarding claim 8, Robinson discloses a flow rate sensor (22).

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson et.al. (6,631,716) in view of Takabayashi et.al. (6,220,245).

Regarding claim 9, Robinson discloses the claimed invention except for the filter. Takabayashi in a ventilator teaches a filter 48. It would have been obvious to one of ordinary skill in the art to modify the ventilator of Robinson to employ a filter as filters are well known in ventilator systems as taught by Takabayashi.

Regarding claim 10, Robinson discloses the claimed invention except for the dehumidifying chamber. Takabayashi teaches a dehumidifying chamber (16) providing a means to minimize the possibility of condensed water being delivered into the ventilator. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the ventilator of Robinson to employ any well known dehumidifying chamber because it would provide a means to minimize the possibility of

condensed water being delivered into the ventilator to minimize the possibility of condensed water being delivered into the ventilator.

Regarding claim 11, Takabayashi teaches a dehumidifying chamber but does not disclose the silica gel. It would have been obvious to one of ordinary skill in the art to use a silica gel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of design consideration. In re Leshin, 227 F.2d 197, 125 USPQ 416.

Conclusion

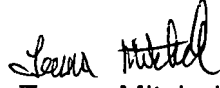
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The balance of art is cited to show respiratory control systems: 7,257,436; 6,003,513; 6,597,939.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teena Mitchell whose telephone number is (571) 272-4798. The examiner can normally be reached on Monday-Friday however the examiner is on a flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3771

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Teena Mitchell
Primary Examiner
Art Unit 3771
September 15, 2007


TKM